



# The SEC Marketing Rule's Biggest Risks

Reduce the biggest threat to compliance:



PEOPLE AND PAPER



## Analysis of Marketing Rule 206(4)-1

78% of investment adviser compliance officers claimed that the SEC Marketing Rule is the “hottest” compliance topic! The new SEC Marketing Rule will be the cause of sleepless nights for many RIA firms’ Chief Compliance Officers (CCOs). These officers will have the daunting task of interpreting how to best establish, communicate and supervise their firm’s new advertising review process.

The SEC Marketing Rule 206(4)-1 is the largest and most sweeping change to marketing rules since 1972. The new rule goes into effect November 4, 2022, for all SEC-registered RIA firms, and will address marketing in our modern, digital world. It will eliminate the current (pre-November 2022) system and codify everything into a single rule. Protocols regarding content, disclosures, performances, testimonials and more have been established and brought into alignment with current media, social media, and digital marketing platforms.

In this article, we will focus on the risks inherent in the advertising review process and potential solutions. According to the 430-page SEC document<sup>2</sup> of the Marketing Rule, the overall burden of the advertising review process per adviser will increase to more than 200 hours per year. That comes out to five working weeks for every adviser at your firm. It’s incumbent on each compliance and risk officer to establish processes that are efficient, facilitate communications between advisers and compliance staff, and minimize firm risks.

At a recent industry technology conference, the Global Head of Reinsurance Governance & Operations for a multi-national financial services firm stated that the biggest compliance risks to his firm are “people and paper”<sup>3</sup>. He concluded that people make mistakes, and they change jobs. Paper locks away data, it may not be readily accessible, and storage may not be compliant.

<sup>1</sup> RESULTS: 2022 INVESTMENT MANAGEMENT COMPLIANCE TESTING SURVEY, IAA

<sup>2</sup> <https://www.sec.gov/rules/final/2020/ia-5653.pdf>

<sup>3</sup> Insurtech Symposium – Hartford, CT. April 26,27, 2022

## Risk #1: The problems with people

### The great resignation

This same speaker that we referred to above, pronounced that the two biggest people risks to his firm are “palm trees and pickle ball courts.” Employees knowledgeable in legacy systems and processes are retiring or leaving the firm. From March 2020 to July 2021 there were about 2.6 million more people who retired than what was the expected population to retire.<sup>4</sup> An estimated 50.3% of adults aged 55 and over left the workforce in the third quarter of 2021. This problem may be compounded by the fact that the younger end of the Baby Boomer generation is now contemplating leaving the workforce entirely<sup>5</sup>.



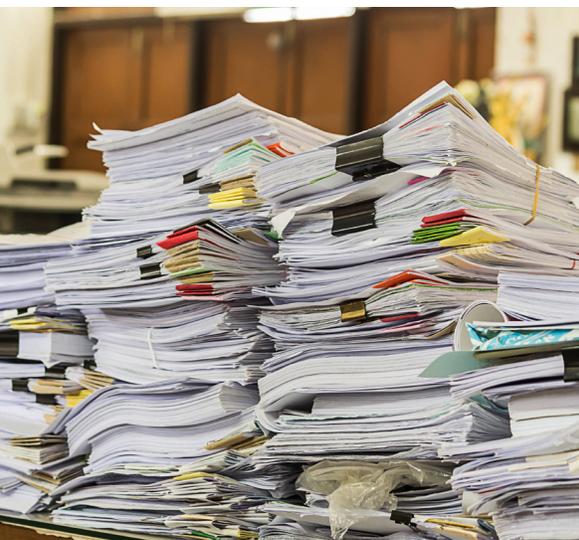
### Replacing staff

When dealing with employees retiring or leaving for other career options, firms are trying to ease the attrition by hiring new staff. This is not an easy task. Current estimates show that it takes approximately 42 days to fill an open position<sup>6</sup>. That’s six weeks of slack that an overburdened CCO or some other person must pick up. The added workload leads to stress, mistakes, and increased turnover.

New employees must be recruited, onboarded, and trained in legacy systems. Frequently, and unfortunately, candidates peak in their interviews. New hire turnover is frustrating. Many firms are creating incentives for new hires who remain for 90 days. If the firm can get a new employee to last 90 days, there is a high probability of them staying with your firm for at least one year.

Manual compliance processes are inefficient and may be difficult for new employees to learn. It takes more time to train. Consequently, potential employees and advisers might avoid the entire process. As a result, if your firm is using legacy systems or antiquated methods, you must go the extra mile to attract and retain workers of all ages.

Now that we’ve explored the people risk factors, let’s discuss paper and all the risks associated with it.



## Risk #2: The problems with paper

### Paper is inefficient

You may think that immortalizing and storing your records on paper is less expensive than digitizing. Paper is inefficient, it creates room for costly errors, and simply wastes time. When using paper, your staff spends more time copying, filing, and searching for documents rather than performing other important functions. As your firm’s sales volume increases, more staff will be needed to keep up with the additional work generated by increased sales. This requires additional staff and additional time at a time where both are hard to come by. Add to that, inefficient or poorly trained staff that may lose, misplace, or somehow throw away the paper documents and records that are mandatory to retain<sup>7</sup>.

<sup>4</sup> <https://www.stlouisfed.org/timely-topics/retirements-increased-during-pandemic>

<sup>5</sup> <https://retirementmattersillinois.com/blog/the-retirement-tsunami-of-2022-why-a-record-number-of-americans-are-retiring-this-year>

<sup>6</sup> <https://www.hirevue.com/blog/hiring/eight-recruitment-metrics-that-matter>

<sup>7</sup> <https://www.qualitymag.com/articles/96767-is-paper-based-data-collection-putting-you-at-non-compliance-risk>

## Illegible submissions

Digitizing records and going to online forms takes care of problem people who do not always write legibly. Time crunched advisers rush to write submissions. Harried analysts fire back notes or emails that cannot be read or may get lost in an email queue. Manual reviews create opportunities for error and delays. The lack of communication between advisers and analysts can become an issue when time is of the essence. When reviews are delayed, sales are lost.

## Storage

SEC 204-2<sup>8</sup> defines record-keeping rules for RIAs. SEC 17(a)-4<sup>9</sup> defines electronic storage requirements for broker dealers. The rules are unforgiving for those using paper-based storage. As previously stated, paper documents can be misplaced or thrown away. This is not an option with the new rules. Assurances must be made that documents are not altered, lost, or damaged. The records must be accessible at any given moment. Being able to access all documents and supporting materials on demand is paramount. Storing paper copies is not an option.

## The benefits of a digitized advertising review process

When the ad review process and storage is digitized, there are immediate benefits. These benefits translate into more time, increased efficiencies, and better communication. Advisers and staff will be happy, analysts are content, and CCOs' worries are alleviated. Pinpoint Global's ComplianceConnect™ Advertising Review module can give CCOs, analysts and advisers a simplified, online digitized solution that translates into immediate benefits.

### Benefit #1 – Faster and automated process

Analysts and support staff quickly become more proficient when the ad review process is digitized. Training is simplified. People can start work quickly. The ad review process is faster. Everything is rules-based with a minimal number of exceptions. Each submission can be reviewed more quickly and sent back to the advisor for implementation or correction. The process is automated, and everyone can visually track the status of their submission.

### Benefit #2 – Better communications

The dashboards on the Advertising Review module enable CCOs to track volume and queues in real time. This enables the CCO the ability assign work more efficiently and assess the proficiency of each compliance analyst.

The dashboards allow advisers and analysts to track submissions throughout the process. Automated reminders inform the “owner” of approval, or a next step is required. Dashboards eliminate the need for status update calls or emails to your compliance team or the panicked calls from advisers screaming, “I need it today!”

**Bottom line: Fewer misunderstandings – greater efficiencies – less stress...on everyone.**

<sup>8</sup> <https://www.sec.gov/rules/final/ic-24991.htm>

<sup>9</sup> <https://www.sec.gov/rules/interp/34-47806.htm>



### **Benefit #3 – Storage compliance**

When using ComplianceConnect’s Advertising Review module, every version, comment, and modification is time-stamped, logged, and stored compliantly. It’s filed logically and is readily accessible when it’s necessary to retrieve. Should your firm be audited, you will be well-organized and in adherence to written supervisory procedures (WSP).

### **Start the move to a technology solution**

It can be hard to change paper-based habits. Many RIA firms are still using paper, spreadsheets, emails, and attachments as part of their advertising review process.

It is important that compliance teams understand the risks associated with continuing to use paper and retaining their current review process. Firms can greatly reduce risks by taking the time to explore the benefits of digitizing a core component of the review and compliance process. Pinpoint Global’s Advertising Review module can speed up the process and make it easy.

#### **1. Standardize**

Every aspect of the advertising review process becomes easier when you standardize. Every submission must be processed the same way. When a submission enters the review pipeline, a reviewer is assigned, and the process begins. Communications are automatic. Assignments to SMEs are immediate. The review process is tracked in real-time. Efficiencies are gained and risks reduced. Friction and miscommunications are minimized, and documents are stored in a centralized place.

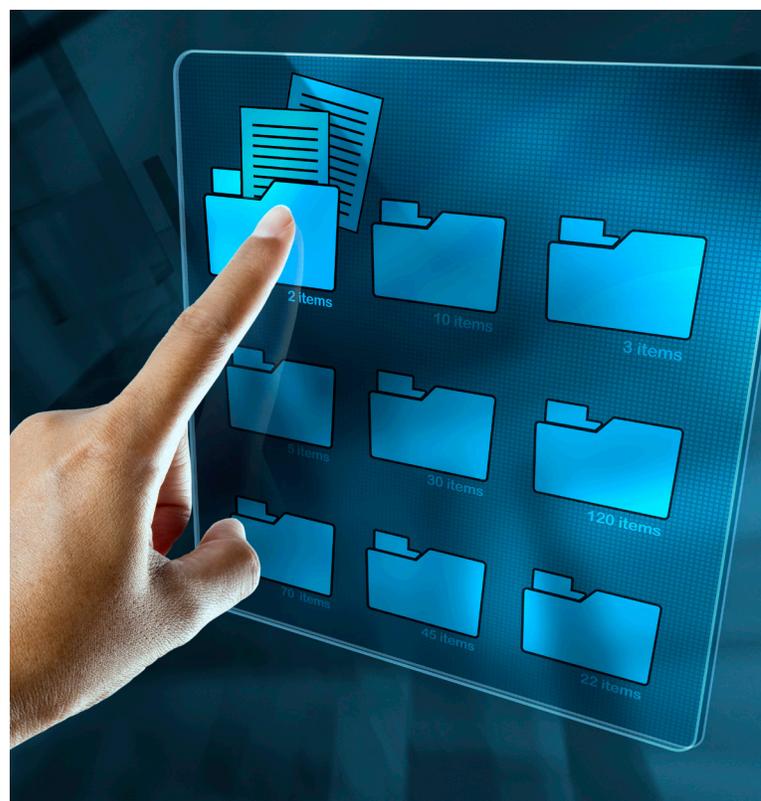
#### **2. Select a suitable solution**

SEC 204-2 and 17(a)-4 establish the methods for storing compliance records. Records must be write-once, read many times (WORM) compliant and readily accessible. Storing paper-based advertising review documentation should not be acceptable.

Cloud technology is unmatched when it comes to its security, scalability, and accessibility. A cloud hosted solution requires little or no ongoing IT maintenance and saves money traditionally spent on hardware.

#### **3. Enable a successful implementation**

A successful roll-out is as important as choosing the right solution. To ensure a successful implementation, the new system must be communicated in advance, your team must be well trained, and your technology provider should be available 24/7. Install a rules-based system and don’t allow exceptions to the process. A structured and well-prepared implementation is critical for a smooth and high acceptance and adoption by analysts, advisers, and managers.



## Pinpoint Global presents ComplianceConnect Advertising Review Module

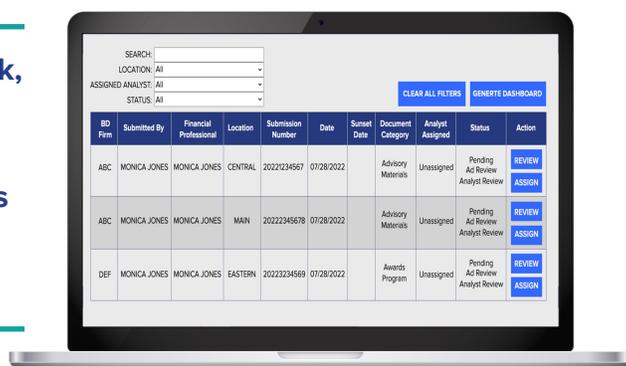
Pinpoint Global's online compliance modules are developed to deliver, monitor, and report on assigned compliance requirements. Our award-winning ComplianceConnect™ technology platform increases communication between advisers and analysts, decreases the amount of time spent on compliance activities and mitigates risk for CCOs.

The Advertising Review module specifically addresses the new SEC Marketing Rule. It simplifies the process from submission to approval. The module provides the storage solution necessary to comply with SEC standards. Communication issues between advisers and analysts will become a thing of the past.

---

**“Our systems are highly reliable. They don’t break, ever. We have had zero downtime in the last five years, continuously working with hundreds of clients and thousands of loggins and transactions every month,” says Bob Sullivan, President and CEO of Pinpoint Global.**

---



### ComplianceConnect Advertising Review

The Advertising Review module features online forms and dashboards that follow workflow from submitter to analyst. Audit trails track, annotate, and store all materials. Progress can be viewed in real time at all levels. No one is left wondering where marketing pieces are in the approval process.

- **Easy-to-use online form makes submittal process simple for advisers**
- **Route, track and annotate**
- **Track and view status of all submissions on status bar**
- **Easily upload materials and attachments in all file formats**
- **Automatic workflow and analyst scheduling queue creates faster review process**
- **Escalate to SMEs, compliance analysts or managers**
- **Inline annotation tool for PDFs. No more downloading and all versions are tracked and saved**
- **All marketing and substantiating support materials stored with Pinpoint's Gold Record storage**

Speed up your process and get Gold Record storage with the ComplianceConnect Advertising Review module. Contact Pinpoint Global for your demo today. Simplify your compliance process.

**Call 716-465-6983 or visit [calendly.com/jstainsby](https://calendly.com/jstainsby)**



**SIMPLIFY YOUR COMPLIANCE PROCESS.** Get your demo today.  
603-880-8130 • [pinpointglobal.com](https://pinpointglobal.com) • Nashua, NH

